



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

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Janet Napolitano
Governor

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March 08, 2006

WIA Guidance Letter #05-06

SUBJECT: LWIA Cost/Price Analysis Guideline Procurement Policy & Worksheet

REFERENCES: P.L. 105-220 Section 184(a) (2) (A), 20 CFR 667.200(a), 29 CFR Part 95 and 97, (OMB) Circulars A-122 and A-133

BACKGROUND: The Workforce Investment Act (WIA), and related Federal Regulations provide guidance for the administration of the WIA program. The guidance includes specific direction regarding procurement and referral to Title 29 CFR Part 95 and 97 for states and local governments. Title 29 CFR Part 97.36 outlines the rules governing procurement of goods and services. Grantees and sub-grantees must perform a cost or price analysis in connection with every procurement action including contract modifications.

ACTION REQUIRED: All LWIAs and their sub-recipients shall establish internal procedures for implementation of the Cost/Price Analysis Guidelines. This Guidance letter and its attachments shall be distributed to all appropriate staff and to all individuals responsible for WIA grant funds, cost/price analysis, LWIB Members, and sub-recipients.

For questions or assistance related to this policy, please contact Roderic (Rod) Webb (602) 542-3957, RLWebb@azdes.gov.

Sincerely,

A handwritten signature in cursive script that reads "Lela Alston".

Lela Alston, Manager
Employment Administration
WIA Section

Attachments: (A) LWIA Cost/Price Analysis Guideline Procurement Policy
(B) Arizona WIA Cost/Price Analysis Worksheet

LWIA Cost/Price Analysis Guideline

Procurement Policy

I. Purpose

These guidelines are issued in accordance with federal statutory and regulatory provisions governing procurement of services for eligible Local Workforce Investment Boards (LWIB) or Service Providers receiving WIA Title IB funds. It is the intent of these guidelines to clarify and promote compliance with U.S. Department of Labor Title 29 Labor, Part 97 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Section 97.36 paragraph (F) Contract Cost and Price. Procurement must include an appropriate analysis of the reasonableness of cost and price. A price and /or cost analysis must be performed in connection with every procurement action, including contract modifications with monetary impact.

II. Background

The Workforce Investment Act (WIA), and related Federal Regulations provide guidance for the administration of the WIA program. The guidance includes specific direction regarding procurement and referral to Title 29 CFR Part 95 and 97 for states and local governments. Title 29 CFR Part 97.36 outlines the rules governing procurement of goods and services. Grantees and sub-grantees must perform a cost or price analysis in connection with every procurement action including contract modifications.

III. References

Title 20 Code of Federal Regulations (CFR) 667.200(a)

Title 29 CFR Part 95 and 97, Section 97.36

OMB Circular A-122 revised 8/29/97

OMB Circular A-133 revised 6/24/97

IV. General Provisions

All procurement awards shall be conducted in accordance with the WIA, Department of Labor regulations and State of Arizona policies and directives. In the event either the Department of Labor or the State of Arizona establishes standards which are more stringent than this policy, the more stringent requirements shall be controlling. Records shall be maintained to detail the significant history of each procurement, including rationale for the method of procurement, selection of contract or agreement type, selection, rejection of proposals, basis for cost/price and non-competitive procurement justification, if applicable. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before requesting bids or proposals.

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Local Workforce Investment Board (LWIB) or Service Providers receiving WIA Title IB funds must maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. All contracts must include provisions required for compliance with U.S. Department of Labor Title 29 Labor, Part 97 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

V. Policy

Local Workforce Investment Board (LWIB) or Service Providers receiving WIA Title IB funds will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

A. Bidder and Vendor Lists

A "Bidder List" containing the names and addresses of potential service providers shall be maintained at the Local Workforce Investment Board (LWIB) or Service Providers Office. Solicitation letters shall be sent to all potential providers on the Bidder List, appropriate to the type of goods and services to be procured. Solicitation packages, Request for Proposal or Information for Bid (RFP or IFB) shall be sent to all who request them. The Bidder List will be updated at least annually.

B. Cost/Price Analysis

An analysis of cost or price shall be performed for all procurement actions, including modifications of monetary contract terms, competitive awards and noncompetitive awards to require submission of cost elements. The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum, the awarding LWIB must make independent estimates before requesting bids or proposals and the analysis shall be documented in their procurement file.

An analysis of vendor price shall be performed by comparing proposed prices to catalog or market prices of comparable products sold to the public, or based on prices set by law or regulation. Price analysis may also be performed for service providers by comparing the proposed price to pre-bid estimates. Program income and/or profit shall be analyzed and negotiated as a separate element for each procurement in which a cost analysis is performed.

- 1. Price Analysis** is the process of examining and evaluating a price without looking at the estimated cost elements and proposed profit of the offeror whose price is being evaluated. The sole purpose of price analysis is to determine if the final price is fair and reasonable.

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Recommended Price Analysis process for comparisons are:

- i. Comparison of prices for competing offers and selecting best price for comparable products or service.
- ii. Comparison of prior quotes and contracts for the same or similar requirements.
- iii. Comparison of offers to parametric estimates or benchmarks.
- iv. Comparison of offers to an independent agency estimate.

2. Cost Analysis is the review and evaluation, element by element of the cost estimate supporting a proposal for the purpose of pricing a contract. Unlike price analysis, which is required for all procurement, cost analysis is required when price analysis alone is not sufficient to determine that a price is fair and reasonable for a product or service. It is required when price competition is weak or where there is only one offeror. For all non-competitive procurement actions, a cost analysis is required.

- i. Cost Analysis must be conducted when:
- ii. The offeror is required to submit the elements of the estimated cost.
- iii. When adequate price competition is lacking.
- iv. For sole source procurement, including contract modification or change orders unless price reasonableness can be established on the basis of market price.
- v. If the scope of products or services required justifies the cost and time of an analysis.

C. Methods of Solicitation Each purchase utilizing WIA funds must follow one of the four procurement methods: (1) Small Purchase, (2) Request for Quote, (3) Request for Proposal, or (4) Noncompetitive Proposal.

1. Small Purchase Procedures

- i. Small purchase procedures should generally be utilized for simple purchases of goods or services under \$10,000 (in a single transaction) that are easily quantifiable and where price is the primary consideration. If the nature of the purchase is more complex and the factors other than price are most important in the selection process, the Competitive Proposal method should be utilized even if the purchase price is less than \$10,000.

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- ii. For Small Purchases, one quote or price must be obtained. The sales receipt is sufficient documentation of the quote or price.
- iii. Similar transactions shall not be broken down into several smaller purchases for the purpose of utilizing the Small Purchase procurement method.

2. Request for Quote (RFQ)

- i. For purchases over \$10,000, a Request for Quote method of procurement should be used if:
 - a. The procurement lends itself to a firm, fixed price, and selection can appropriately be made primarily based on price and perceived quality of the goods or services.
 - b. A complete, adequate, and realistic specification or purchase description has been developed.
 - c. There is at least the possibility of two or more responsible suppliers willing and able to compete effectively for the award.
- ii. If this method is used, the solicitor shall:
 - a. Allow sufficient time for potential suppliers to respond.
 - b. Solicit quotes by issuing a Request for Quote document to known suppliers, and by publicly advertising the Request for Quote.
 - c. Clearly define in the RFQ document the items or services needed, key performance criteria, and dimensions or specifications in order for the offeror to properly respond to the RFQ.
- iii. The documentation that must be retained for the RFQ method shall include:
 - a. The rationale for why the RFQ method was selected.
 - b. The RFQ document.
 - c. The list of known suppliers to whom the RFQ was sent.
 - d. All responses to the RFQ.
 - e. The rationale for the selection.
 - f. Evidence of public advertisement of the RFQ; (show proof of open competition).

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3. Request for Proposal (RFP)

- i. The Request for Proposal method for procurement should be used when:
 - a. The nature of the item or service needed precludes developing a specification or a purchase description so precise that all potential suppliers have an identical understanding of the requirements.
 - b. Those responsible for preparing the procurement are unable to predetermine product or service specifications to the level needed to assure that both a fair price and the optimum product or services will be obtained through the competitive bid.
 - c. Price is not the primary or dominant factor in the award decision.
- ii. If the Request for Proposal method is used, the solicitor shall:
 - a. Solicit offers by publishing a Request for Proposal (RFP) for a minimum of three (3) qualified sources to ensure competition.
 - b. Publicly advertise the RFP in local paper or business journal.
 - c. Allow four (4) weeks for potential suppliers to respond.
 - d. Ensure that the RFP identifies the scope of work and service area, all significant evaluation or rating factors, and the deadline for receipt of responses to the RFP.
 - e. Establish evaluation factors for the award and the relative importance of each in the evaluation process.
 - f. Provide for negotiation with any or all offerors determined through the rating process to be responsive and advantageous to the program, and the notification of unsuccessful proposes in a reasonable amount of time.
- iii. Appropriate documentation for the Request for Proposal method shall include:
 - a. The rationale for why the RFP method was selected.
 - b. The RFP document.
 - c. The list of known suppliers to whom the RFP was sent.
 - d. Evidence of public advertisement of the RFP.
 - e. All responses to the RFP.

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- f. Documentation of the results of the scoring of the proposals.

4. Noncompetitive Proposals (Sole Source) or Competition Impracticable

- i. Except when the Small Purchase Procedures method is used, the Noncompetitive Proposals (sole source) method may be used only when the procurement is infeasible under Request for Quote method or the Request for Proposal method due to one of the following circumstances:
 - a. The item or service is available from only one source (sole source). If this rationale is utilized, the solicitor must document how it was established that there was a single source for the good or service. Alternatively,
 - b. Public urgency or emergency will not permit the time required for a competitive solicitation. Alternatively,
 - c. A failed competition has occurred. Alternatively,
 - d. Approval is obtained from area governing body.
- ii. A failed competition occurs when less than two qualified, responsive quotes or proposals are received.
- iii. The rationale for utilizing the Noncompetitive Proposal method must be adequately documented in the procurement file. The LWIA Executive Director or the Director's designee should sign the noncompetitive proposal.

5. Authorization

Solicitations may be released at any time with the authorization of Local Workforce Investment Board. The Local Workforce Investment Area Executive Director or the Director's designee shall authorize awards. Any signature delegation by the Executive Director shall be in writing.

- i. A public officer or employee cannot participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.
- ii. LWIB must maintain a written code or written standards of conduct, which will govern the performance of its officers, employees or agents in contracting with or procuring supplies, equipment, construction or services with WIA funds. These standards must provide that no officer, employee or agent (including LWIB members) will:

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- a. Solicit or accept gratuities, favors, or anything of monetary value from suppliers or potential suppliers, including subcontractors' contracts. Alternatively,
- b. Participate in the selection, award or administration of a procurement supported by WIA funds where, to the individual's knowledge, any of the following has a financial or other interest in any organization which may be considered for award were:
 - (i) The officer, employer or agent.
 - (ii) Any member of his or her immediate family.
 - (iii) His or her partner or;
 - (iv) A person or organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm or organization selected for award.
- iii. To the extent permitted by State and local law or regulations, LWIB standards must provide for penalties, sanctions or other disciplinary actions (such as suspension, termination or civil action to recover money damages). This is to be applied for contract related violations of law or established standards of conduct by LWIB officers, employees or agents or by contractors or their agents.

6. Written Policies/Procedures

Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

- i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
- ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Arizona WIA Cost/Price Analysis Worksheet

Procurement Description and Date:

Provider/Agency: _____

Name and title of Staff Person Completing This Form:

PRICE

1. The following price per outcome or unit benchmark(s) were considered. List at least one price benchmark.

2. The price benchmark(s) were compared to:

(a) Other potential providers: ☐ List # of other providers' _____

(b) This providers past price(s): ☐ List year(s) considered: _____

(c) Other: ☐

Describe methodology: _____

3. Based upon the foregoing comparison, price(s) are reasonable and justifiable either because:

(a) The price(s) are at or below going rates Yes: ☐ No: ☐ or

(b) The price(s) are otherwise justifiable for the following reasons:

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4. (a) Are the goods or services procured either tuition based or commercially available or neither?

Tuition: Yes: ☐ No: ☐ Commercially Available: Yes: ☐ No: ☐

If "neither", skip to question #5 next page.

If the service is tuition based, is the provider a nationally accredited Higher Education Act institution, including but not limited to Community Colleges and PELL eligible institutions:

Yes: ☐ No: ☐ N/A: ☐

- (b) If the service is either tuition based or commercially available is the service:

(1) offered at or below the going rate: Yes: ☐ No: ☐

(2) the same training package listed in a catalogue: Yes: ☐ No: ☐ N/A: ☐

- (c) If the training package or service is not tuition based but is commercially available, does a "substantial market" exist (at least 10% of all units sold)?

Yes: ☐ No: ☐ N/A: ☐

Explain: _____

COST

5. If "No" is checked in 4(a), (b), (c) or (d) above, a cost analysis must be performed. If the service is part tuition based or part commercially available and part some other combination of services, perform a cost analysis on all non-tuition/non-"commercially-available" services. A line-item budget detailing projected costs must be obtained.

(a) Are all costs correctly calculated? Yes: ☐ No: ☐

(b) Are all line items reasonable relative to going rates? Yes: ☐ No: ☐

Explain how "going rates" were established. Check at least one of the following boxes:

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- (1) Survey of comparable past provider costs: ☐
- (2) Survey of comparable current provider estimates: ☐
- (3) At least two other bidders with comparable costs: ☐
- (4) Other: ☐

Explain: _____

(c) Are all line item costs necessary to perform the service(s) offered?

Yes: ☐ No: ☐

(d) Are all costs allowable expenses? Yes: ☐ No: ☐

(e) If profit or program income is shown in the line item budget, is the profit/program income amount reasonable relative to the risk assumed, the complexity of the service or market conditions? Yes: ☐ No: ☐ N/A: ☐

% of Profit _____ Rationale:

What contractual conditions must be fulfilled for any profit/program income to be earned to be permitted?

Explain: _____

6. All costs/prices are properly allocated according to the following certification.

Yes: ☐ No: ☐

*If "no" is answered in 3, 5 (a), (b), (c), (d), and (e) or 6. above, obtain additional information in order to correct the problem, if the problem cannot be corrected, refer the matter to your supervisor.

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CERTIFICATION OF *COST/PRICE* ANALYSIS

This is to certify that I have reviewed the cost/price analysis submitted herewith and to the best of my knowledge and belief:

- 1) All costs included in this proposal to establish cost allocations or billings are accurate, current, complete, and allowable in accordance with the requirements of OMB Circular A-122 Revised 8/29/97 and A-133 Revised 6/24/97 and the Federal award(s) to which they apply. Unallowable costs have been adjusted for and excluded from the negotiated agreement.
- 2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or casual relationship between the expenses incurred and the awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently.

I declare that the foregoing is true and correct.

LWIA Unit: _____

Signature: _____

Name: _____

Title: _____

Filing and Retention Guidelines:

Procurement records must be maintained in sufficient detail so as to provide a significant history of the procurement action. These records must include, but are not necessarily limited to, the following: rationale for the method of procurement, the selection of agreement type, awardees selection or rejections, and the basis for the agreement type. Local Boards and their grantees must maintain a contract administration system, which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Retention of all required records must be retained for five (5) years after LWIB makes final payments and all other pending matters are closed.